UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,499	03/24/2004	David John Butcher	550-540	4256

23117   7590   03/28/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
LI, AIMEE J

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
03/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/807,499	BUTCHER ET AL.
	Examiner	Art Unit
	AIMEE J. LI	2183

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>04 March 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>5</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-49</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure* Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Aimee J Li/
Primary Examiner, Art Unit 2183

Continuation of 7: The amended claims are rejected under the same prior art rejections presented in the Final Rejection dated 05 October 2007. Entry of the amendments to the claims and replacement drawings remove the objections to the claims and drawings and the rejection of claims 1-12 under 35 U.S.C. 112, second paragraph. Also, the rejections of claims 1-12 under 35 U.S.C. 101 is removed in view of the arguments.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' argue in essence on page 19 "It is possible that the Patent Office confusion is because the Examiner has not appreciated that Ishizaki and Hennessy relate to handling two very different types of exceptions. Ishizaki, like the present invention, relates to 'software exceptions,' especially where the software program itself handles any events which disrupt the normal flow of the execution of the program. Hennessy relates to the handling of CPU exceptions whereby an unexpected event within the processor is analyzed and dealt with by the operating system." This has not been found persuasive. It appears that the citation relied upon by the arguments on page 410, lines 24-25 was taken out of context with the rest of the explanation of what exceptions are by Hennessy. Hennessy explains further on page 410 an exception "is an unexpected event from within the processor...(lines 26-27)" and that Hennessy follows the MIPS convention, which is a software language, with regards to "using the term exception to refer to any unexpected change in control flow without distinguishing whether the cause is internal or external...(lines 33--36)" Hennessy further shows when exceptions occur in MIPS terminology in a table on page 411, which includes "using an undefined instruction" as an exception. This is decidedly a software exception, since "using an indefined instruction", which means an instruction that is not recognized by the system either because the instruction is incorrect or its parameters are incorrect, is a software exception, i.e. an exception caused by the software. In general, it is known in the art, as shown in Hennessy, that an exception is any type of unexpected event caused by software or hardware that causes a change in the control flow, i.e. causes the instructions of the program to diverge from the natural control flow of the program instructions.